

REMARKS

Claims 1-32 are pending in this Application. Though no claims are amended with this Response, Applicant respectfully provides the above claim listing for the Examiner's convenience. Applicant respectfully thanks the Examiner for removing the Objection to the Specification indicated in the previous Office Action. The Examiner's instant rejections will now be addressed in turn.

Rejections under 35 U.S.C. §103(a)

Claims 1-5, 7, 9, 10, 17-24, and 26 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 1,032,436 to Smith ("Smith" hereinafter) in view of United States Patent No. 6,438,802 to Beeman ("Beeman" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 recites:

"said line retaining part comprising at least one groove for accommodating the line, said groove being open and configured to receive the line via a longitudinal opening defined by said retaining part,...wherein said at least one groove is designed with flexible retaining means for retaining the line;... wherein the flexible retaining means for retaining the line comprises a plurality of flexible parts protruding into the groove."

Neither Smith nor Beeman, taken alone or in combination, teach flexible parts protruding

into a groove. The Examiner concedes this point with regards to Smith. With regards to Beeman, The Examiner states that Beeman teaches a plurality of flexible parts 10 protruding into a groove, and bases this statement on an allegation that these teeth are *not* specifically taught to be inflexible. Applicant asserts that this allegation is not correct.

First, referring to column 5, lines 32-35, Applicant respectfully points out that Beeman teaches the clamping members (including the teeth 10 that are unitary therewith) to be constructed of a “***rigid***, high impact strength plastic.” As the term “rigid” would clearly be interpreted in a manner opposite to “flexible,” the Examiner’s allegation that the teeth 10 are not taught to be specifically inflexible is respectfully incorrect. As such, Beeman clearly fails to teach the flexible teeth recited in Applicant’s claims.

Furthermore, considering the function of the teeth 10 is to clamp the cord or tubing in a zig-zag configuration, and considering the inflexible geometry of these triangular teeth 10, it is implicit from the teaching of Beeman that the teeth 10 are operably intended to be rigid in construction.

Accordingly, if one were to modify the teeth 10 of Beeman to include a flexible construction, as the Examiner is essentially doing, the Beeman device would be rendered inoperable for its stated and intended purpose of gripping tubing via “rigid” teeth that are inclusive of an inflexible triangular geometry and configured to clamp the cord or tubing in a zig-zag configuration. This inoperability renders such a modification improper under MPEP 2143.01V.

For at least the above reasons, the proposed combination of Smith and Beeman does not teach flexible teeth, and any modification that would render Beeman inclusive of such teeth would be improper under 2143.01V.

With more specific reference to the Examiner’s usage of Smith, Applicant respectfully notes that Smith does not teach at least one groove for accommodating a line (or pencil in the

case of Smith), wherein the groove is open and configured to receive the line (pencil) *via a longitudinal opening* defined by a retaining part. On the contrary, referring to Figure 3 in particular, Smith teaches a pencil that is inserted from the end into the grip 19, wherein the middle grip 25 has a forward pointing longitudinal opening that is not configured to let a pencil pass into the grip.

Accordingly, for at least the above reasons Applicant respectfully submits that the proposed combination of Smith and Beeman does not teach every element of Applicant's claims 1-5, 7, 9, 10, 17-24, and 26. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1-5, 7, 9, 10, 17-24, and 26, with respect to the proposed combination of Smith and Beeman. Since the proposed combination of Smith and Beeman fails to teach or suggest all of the limitations of claims 1-5, 7, 9, 10, 17-24, and 26, and since neither Smith nor Beeman are related to the medical field or operable in conjunction with flexible teeth, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claims 1, 31, and 32 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 4,820,274 to Choksi ("Choksi" hereinafter) in view of United States Patent No. 6,438,802 to Beeman ("Beeman" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 recites:

“said line retaining part comprising at least one groove for accommodating the line, said groove being open and configured to receive the line via a longitudinal opening defined by said retaining part,...wherein said at least one groove is designed with flexible retaining means for retaining the line;... wherein the flexible retaining means for retaining the line comprises a plurality of flexible parts protruding into the groove; wherein said longitudinal opening is configured to remain open while the line is releasably retained in said groove.”

Neither Choksi nor Beeman, taken alone or in combination, teach flexible parts protruding into a groove. The Examiner concedes this point with regards to Choksi. With regards to Beeman, The Examiner states that Beeman teaches a plurality of flexible parts 10 protruding into a groove, and bases this statement on an allegation that these teeth are not specifically taught to be inflexible. Applicant again asserts that this allegation is not correct.

First, referring to column 5, lines 32-35, Applicant respectfully points out that Beeman teaches the clamping members (including the teeth 10 that are unitary therewith) to be constructed of a “*rigid*, high impact strength plastic.” As the term “rigid” would clearly be interpreted in a manner opposite to “flexible,” the Examiner’s allegation that the teeth 10 are not taught to be specifically inflexible is respectfully incorrect. As such, Beeman clearly fails to teach the flexible teeth recited in Applicant’s claims.

Furthermore, considering the function of the teeth 10 is to clamp the cord or tubing in a zig-zag configuration, and considering the inflexible geometry of these triangular teeth 10, it is implicit from the teaching of Beeman that the teeth 10 are operably intended to be rigid in construction.

Accordingly, if one were to modify the teeth 10 of Beeman to include a flexible construction, as the Examiner is essentially doing, the Beeman device would be rendered inoperable for its stated and intended purpose of gripping tubing via “rigid” teeth that are inclusive of an inflexible triangular geometry and configured to clamp the cord or tubing in a zig-

zag configuration. This inoperability renders such a modification improper under MPEP 2143.01V.

For at least the above reasons, the proposed combination of Choksi and Beeman does not teach flexible teeth, and any modification that would render Beeman inclusive of such teeth would be improper under 2143.01V.

With more specific reference to the Examiner's usage of Choksi, Applicant respectfully notes that Choksi does not teach a groove having a longitudinal opening that is configured to remain open while the line is releasably retained in the groove, as is alleged by the Examiner. At page 5 of the Final Office Action the Examiner refers to Figure 7, and states that even though the groove is closed by a cover 32, keeping the tubing 22 in the groove, the Examiner sees the groove as being open because the tubing 22 is smaller than the height of the groove, which means that an empty space is present above the tubing 22 and below the cover 32. Applicant respectfully traverses this statement, and asserts that one of ordinary skill in the art would never interpret a groove that is **covered** by a cover placed on top of the groove as being an open groove. If such an interpretation were to be considered valid, it could for the same reasons be argued that the groove shown in Figure 7 is open in oblique directions downwards, since there are empty spaces below the tubing 32 towards the bottom corners of the groove. It is Applicant's position that one of ordinary skill in the art would not reach such a conclusion, and similarly it is submitted that a one of ordinary skill in the art would not characterize the groove in Figure 7 as being open upwards, when the groove is clearly taught to be closed by a cover 32.

Accordingly, for at least the above reasons Applicant respectfully submits that the proposed combination of Choksi and Beeman does not teach every element of Applicant's claims 1, 31, and 32. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1, 31, and 32, with respect to the proposed combination of Choksi and Beeman. Since the proposed combination of Choksi and Beeman fails to teach or suggest all of the limitations of claims 1, 31, and 32, and since Beeman is not related to the medical field or

operable in conjunction with flexible teeth, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claims 11-14 have been rejected under 35 U.S.C. §103(a) as being obvious over Smith in view of Beeman and United States Patent No. 6,428,514 to Goebel ("Goebel" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 11-14 depend from claim 1. Accordingly, for at least the above reasons, Applicant respectfully submits that the proposed combination of Smith and Beeman does not teach every element of Applicant's claims 11-14. As Goebel does not remedy the deficiencies of Smith and Beeman, Applicant further and respectfully submits that *prima facie* obviousness does not exist regarding claims 11-14, with respect to the proposed combination of Smith, Beeman, and Goebel. Since the proposed combination of Smith, Beeman, and Goebel fails to teach or suggest all of the limitations of claims 11-14, and since Smith and Beeman are not related to the medical field or operable in conjunction with flexible teeth, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claims 15 and 16 have been rejected under 35 U.S.C. §103(a) as being obvious over Smith in view of Beeman, Smith, and United States Patent No. 5,318,192 to Rebeyrolle ("Rebeyrolle")

hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 15 and 16 depend from claim 1. Accordingly, for at least the above reasons, Applicant respectfully submits that the proposed combination of Smith and Beeman does not teach every element of Applicant's claims 15 and 16. As neither Goebel nor Rebeyrolle remedy the deficiencies of Smith and Beeman, Applicant further and respectfully submits that *prima facie* obviousness does not exist regarding claims 15 and 16, with respect to the proposed combination of Smith, Beeman, Goebel, and Rebeyrolle. Since the proposed combination of Smith, Beeman, Goebel, and Rebeyrolle fails to teach or suggest all of the limitations of claims 15 and 16, and since Smith and Beeman are not related to the medical field or operable in conjunction with flexible teeth, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claim 15 has been rejected under 35 U.S.C. §103(a) as being obvious over Smith in view of Beeman and United States Patent No. 4,711,636 to Bierman ("Bierman" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165

U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claim 15 depends from claim 1. Accordingly, for at least the above reasons, Applicant respectfully submits that the proposed combination of Smith and Beeman does not teach every element of Applicant's claim 15. As Bierman does not remedy the deficiencies of Smith and Beeman, Applicant further and respectfully submits that *prima facie* obviousness does not exist regarding claim 15, with respect to the proposed combination of Smith, Beeman, and Bierman. Since the proposed combination of Smith, Beeman, and Bierman fails to teach or suggest all of the limitations of claim 15, and since Smith and Beeman are not related to the medical field or operable in conjunction with flexible teeth, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claims 27-30 have been rejected under 35 U.S.C. §103(a) as being obvious over Smith in view of Beeman and United States Patent No. 4,944,924 to Mawhirt ("Mawhirt" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 27-30 depend from claim 1. Accordingly, for at least the above reasons, Applicant respectfully submits that the proposed combination of Smith and Beeman does not teach every element of Applicant's claims 27-30. As Mawhirt does not remedy the deficiencies of Smith and Beeman, Applicant further and respectfully submits that *prima facie* obviousness does not exist

regarding claims 27-30, with respect to the proposed combination of Smith, Beeman, and Mawhirt. Since the proposed combination of Smith, Beeman, and Mawhirt fails to teach or suggest all of the limitations of claims 27-30, and since Smith and Beeman are not related to the medical field or operable in conjunction with flexible teeth, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,
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